

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

WILLIAM ROBINSON
and
DORIS B. ROBINSON

Claim No CU - 2171

Decision No. CU 6243

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant:

George D. Webster, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by WILLIAM ROBINSON and DORIS B. ROBINSON for \$1,465,539.70 based upon the asserted ownership and loss of certain real and personal property, and stock interests in Cuban enterprises. Claimants have been nationals of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term "property" means any property, right, or interest including any leasehold interest, and

debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants describe their loss as follows:

Stock Interests

1. 66% of Lavanderia La Comercial, S.A. (Lavanderia)	\$ 330,000.00
2. 65% of Tintoreria y Lavanderia Panam, S.A. "Lindsay"	227,500.00
3. 50% of Cia Cubana Americana de Suministros de Ropa Blanca, S.A. (Suministros)	200,000.00
4. 50% of Acme Cleaners, S.A.	13,500.00

Other

5. Machinery, equipment and furnishings used at "Lindsay"	171,000.00
6. Industrial Property	292,000.00
7. Residence at 190 Street No. 2712 Barandilla, Marianao	74,900.00
8. Household furniture and furnishings	35,000.00
9. Residence at 198 Street No. 2703 Barandilla, Marianao	65,786.07
10. Residence at 31st Avenue No. 19813 Coronela, Marianao	<u>55,853.63</u>
	\$1,465,539.70

On the basis of the evidence of record, the Commission finds that pursuant to the Community Property Law of Cuba each claimant herein owned a one-half interest in the real and personal property, and stock interests subject of this claim (see Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915) all as further discussed below.

Since the enterprises in which claimants owned stock interests were organized under the laws of Cuba, they do not qualify as a corporate "national of the United States" defined under Section 502(1)(B) of the Act as a corporation or other legal entity organized under the laws of the United States, or any State, the District of Columbia, or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50 per centum or more in natural persons who are citizens of the United States. In this type of situation, it has been held that an American stockholder is entitled to file a claim for the value of such ownership interest. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

(1) Lavanderia

On the basis of the entire record including stock certificates in subject Cuban corporation the Commission finds that claimants jointly owned a 66% stock interest in this corporation.

Based on the evidence of record the Commission finds that Lavanderia was intervened by the Government of Cuba by Resolution No. 17929 of the Minister of Labor published on August 29, 1960.

Claimants base their evaluation on a capitalization of 10 times the asserted minimum earnings of \$50,000 for the preceding five years.

The record includes a copy of the balance sheet of Lavanderia as of June 30, 1960 prepared by a public accountant, and a copy of the Cuban Tax Return for the corporation for the year ending December 31, 1959.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimants is that shown in the balance sheet as of June 30, 1960 which has been examined. It reflects current assets of \$80,022.56, fixed assets of machinery, vehicles, furniture and fixtures, in the amount of \$196,125.35 after depreciation. The liabilities are shown as \$29,247.28. Accordingly,

the Commission finds a net worth of \$246,900.63. The record shows that Lavanderia had outstanding 1,300 shares of preferred stock and 200 shares of common stock. Nothing of record indicates any different basis of evaluation to be applied to the preferred shares. Accordingly each share is seen to have a value of \$164.60042 and claimants' 66 percent interest had a value of \$162,954.42.

The Commission therefore finds that claimants suffered a loss in that amount on August 29, 1960.

(2) "Lindsay"

On the basis of the entire record including stock certificates in subject Cuban corporation the Commission finds that claimants jointly owned a 65% stock interest in this corporation.

Based on the evidence of record the Commission finds that Lindsay was intervened by the Government of Cuba by Resolution No. 8789 of the Minister of Labor published on July 11, 1960.

Claimants base their evaluation on a capitalization of 10 times the asserted minimum earnings of \$35,000 for the preceding five years.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimants is that shown in the certified balance sheet as of May 31, 1960. This reflects current assets of \$49,064.15 and vehicles in the amount of \$18,201.47, after depreciation. The liabilities are shown as \$36,303.58. Accordingly, the Commission finds a net worth of \$30,962.04. The record shows that "Lindsay" had outstanding 200 shares of stock. Thus each share is seen to have a value of \$154.8102 and claimants' 65 percent interest had a value of \$20,125.33.

The Commission therefore finds that claimants suffered a loss in that amount on July 11, 1960.

(3) Suministros

On the basis of the entire record including stock certificates in subject Cuban corporation the Commission finds that claimants jointly owned a 50% stock interest in this corporation.

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Based on the evidence of record the Commission finds that Suministros was intervened by the Government of Cuba by Resolution No. 15772 of the Minister of Labor published on August 18, 1960.

Claimants base their evaluation on a capitalization of 10 times the asserted minimum earnings of \$40,000 for the preceding five years.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimants is that shown in the certified balance sheet of June 30, 1960. This reflects current assets in the amount of \$153,792.28 and fixed assets including machinery, furniture, vehicles and the like, in the amount of \$24,349.95 after depreciation. The liabilities are shown as \$20,564.38. Accordingly the Commission finds a net worth of \$157,577.85. Thus each share is seen to have a value of \$185.3857 and claimants' 50 per cent interest had a value of \$78,788.93.

The Commission therefore finds that claimants suffered a loss in that amount on August 18, 1960.

(4) Acme Cleaners

On the basis of the entire record including stock certificates in subject corporation the Commission finds that claimants jointly owned a 50% stock interest in this corporation.

Based on the evidence of record the Commission finds that Acme Cleaners was intervened by the Government of Cuba, by Resolution No. 11654 of the Minister of Labor, published on August 4, 1960.

Claimant, WILLIAM ROBINSON, states that the 200 shares of capital stock issued totaled \$20,000 and that the last balance sheet showed a surplus of slightly more than \$7,000 as of December 31, 1959. Based on the evidence of record, including an affidavit by the firm's certified public accountant that to the best of his knowledge the net worth was in excess of \$27,000, the Commission finds that the net worth of subject corporation was \$27,000 on the date of loss. As there were 200 shares of stock outstanding, each had a value of \$135, and claimants' 50 percent interest had a value of \$13,500.

The Commission therefore finds that claimants suffered a loss in that amount on August 4, 1960.

(5) Machinery, Equipment, and
Furnishings used by "Lindsay"

Based on the evidence of record including a copy of a report submitted July 6, 1960 to the American Embassy in Cuba relative to the property of the Robinson family the Commission finds that claimants jointly owned the machinery, equipment, fixtures and furniture, which were leased to "Lindsay" on a rental value of 10% of the depreciated value. The Commission further finds that this personalty was taken by the Government of Cuba on July 11, 1960 when "Lindsay" was intervened.

The record reflects that the rental for this personalty was \$18,000 as of January 1, 1959. Based on the evidence of record including a detailed list of the furniture and equipment prepared by WILLIAM ROBINSON the Commission finds that the value of this personalty was \$171,000 and that claimants suffered a loss in that amount on July 11, 1960.

(6) Industrial Property

Based on the evidence of record including the deed to the property, an affidavit of the architect who designed and built the building, bills, receipts, and other documents, the Commission finds that claimants jointly owned in its entirety the industrial building and plot located at Calzada del Cerro 1410, Havana. The Commission further finds that this building which was used to house Lavanderia, "Lindsay", and Acme Cleaners S.A., was taken by the Government of Cuba on July 11, 1960 when Lindsay was intervened.

The record includes in support of the claimed value, the aforementioned affidavit of the architect and builder in which he describes the building as a reinforced three-story building, constructed in 1952-1953 for \$181,787.90. Claimant, WILLIAM ROBINSON, states that the original purchase in 1944 which included a building and about 1,600 square meters of land cost \$46,000, that new construction in 1945-1946 cost about \$30,000, that thereafter in 1953 and 1956 he purchased about 1,900 additional square meters of adjoining land for a total of \$19,000. Other costs listed bring the total expenditure to \$330,485.78.

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On the basis of the entire record including the aforementioned documents, the Commission finds fair and reasonable the asserted value of \$292,000 for this building, representing claimants' investment less depreciation, as determined by his auditor, and reported to the Embassy in July, 1960.

- (7) Residence at 190th Street No. 2712, and
- (8) Household Furniture and Furnishings

Based upon the entire record, including a copy of claimant's aforementioned report of July 6, 1960 to the American Embassy and affidavits of individuals familiar with the facts and a report from abroad the Commission finds that claimants jointly owned their residence located at 190th Street No. 2712, Barandilla, Marianao, and the furnishings and other personalty therein.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). Claimant, WILLIAM ROBINSON, states that he left Cuba in October, 1960.

Based on the foregoing and the evidence of record, the Commission finds that claimants' real property in Marianao was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission further finds that the household furnishings and other personalty in their home were taken on that date.

The record includes, in support of the claimed values, a description of the home as a single-level Spanish colonial building of about 840 square meters on a lot of about 6,000 square meters, of masonry construction and having about 12 rooms with usual facilities, as well as a three-car garage, a store house, tool and garden house, and a greenhouse.

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Claimant, WILLIAM ROBINSON, states he purchased the home and 4,000 square meters in 1943 for \$32,500 and thereafter purchased 2,000 additional square meters for \$6,400 and constructed considerable improvements totalling \$36,000, a total investment of \$74,900. He states that considering land values and building costs in 1958 the home, exclusive of furnishings was not replaceable at less than \$125,000. In his report to the American Embassy he stated that more than \$70,000 had been invested in the land and house. His evaluation of the home furnishings which included a collection of antique Chinese art objects and two automobiles, is \$35,000 as reported in 1960. The record also includes an affidavit by claimants listing the personal property and its estimated value when taken. Individuals familiar with the home over many years have variously estimated its value, exclusive of furnishings, at between \$70,000 and \$100,000.

On the basis of the record, the Commission finds that the asserted values of \$74,900 for the home and \$35,000 for the household furnishings and other personalty, are fair and reasonable.

(9) Residence at 198th Street No. 2703

Based upon the entire record, including the deed to the property, a contract for the construction of the residence on the property, bills, receipts and other documents, the Commission finds that claimants jointly owned the residence located at 198th Street No. 2703, Barandilla, Marianao.

The Commission further finds that this residence, occupied by claimants' son Brandon and his family, was also taken on October 14, 1960 pursuant to the aforementioned Urban Reform Law.

The record includes in support of the asserted value, a description of the home as a two-story stone masonry building on a lot of about 4,900 square meters and having about 12 rooms and usual facilities, as well as a two-car garage. The deed discloses that the land was purchased in 1954 by claimants for \$12,000 and the contract for the construction of the residence discloses the contract price of \$43,399.12, which is detailed in the record.

On the basis of the entire record including the aforementioned documents, the Commission finds that the asserted value of \$65,786.07 for this realty is fair and reasonable.

(10) Residence at 31st Avenue No. 19813

Based on the entire record, including the deed to the property, a contract for the construction of the residence on the property, bills, receipts, and other documents, the Commission finds that claimants jointly owned the residence located at 31st Avenue No. 19813, Coronela, Marianao. The Commission further finds that this residence, occupied by claimants' son Richard and his wife, was taken on October 14, 1960 also pursuant to the Urban Reform Law.

The record includes in support of the claimed values, a description of the home as a one story, two-winged stone masonry building on a lot of about 5,600 square meters and having about 12 rooms and usual facilities, as well as a two-car garage. The deed discloses that the land consisting of 8,800 square meters was purchased in 1955 by claimants for \$12,500. The residence and other improvements cost \$49,813.63, which is detailed in the record. Claimant, WILLIAM ROBINSON, states that 3,230 square meters of the land were thereafter sold for \$6,460.

On the basis of the entire record including the aforementioned claimants, the Commission finds that the asserted value of \$55,853.65 for this real property is fair and reasonable.

Recapitulation

Claimants' losses are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Lavanderia	August 29, 1960	\$162,954.42
"Lindsay"	July 11, 1960	20,125.33
Suministros	August 18, 1960	78,788.93
Acme Cleaners	August 4, 1960	13,500.00
Machinery	July 11, 1960	171,000.00
Industrial Property	July 11, 1960	292,000.00
Residence at 190th Street including furnishings	October 14, 1960	109,900.00
Residence at 198th Street	October 14, 1960	65,786.07
Residence at 31st Avenue	October 14, 1960	<u>55,853.65</u>
		\$969,908.40

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered as follows:

	<u>FROM</u>	<u>ON</u>
WILLIAM ROBINSON	July 11, 1960	\$241,562.66
	August 4, 1960	6,750.00
	August 18, 1960	39,394.47
	August 29, 1960	81,477.21
	October 14, 1960	<u>115,769.86</u>
		\$484,954.20
DORIS B. ROBINSON	July 11, 1960	\$241,562.67
	August 4, 1960	6,750.00
	August 18, 1960	39,394.46
	August 29, 1960	81,477.21
	October 14, 1960	<u>115,769.86</u>
		\$484,954.20

CERTIFICATIONS OF LOSS


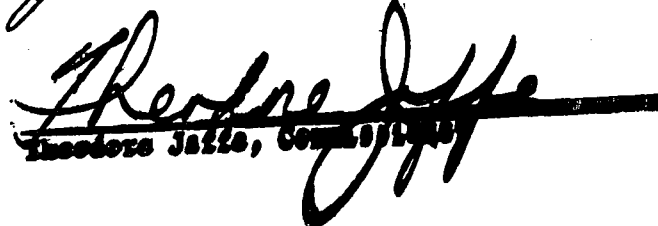
The Commission certifies that WILLIAM ROBINSON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Eighty-four Thousand Nine Hundred Fifty-four Dollars and Twenty Cents (\$484,954.20) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement; and

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The Commission certifies that DORIS B. ROBINSON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Eighty-four Thousand Nine Hundred Fifty-four Dollars and Twenty Cents (\$484,954.20) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

JUN 23 1971


Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 31.5(e) and (g), as amended (1970).)

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